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Attorneys for Defendant
ANTHONY ROBERTS

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BONNIE STERNGOLD,

Plaintiff,

vs.

ANTHONY ROBERTS, and DOES 1-10,

Defendants.

) Case No.: C07-02450 EMC

) **DEFENDANT'S CASE MANAGEMENT**
) **STATEMENT AND PROPOSED ORDER**

) Date: November 14, 2007

) Time: 1:30 p.m.

) Dept: Courtroom C, 15th Floor

) Judge: Magistrate Judge Edward M. Chen

) Action Filed: May 7, 2007

) Trial Date:

Defendant Anthony Roberts ("Defendant) submits this Case Management Statement for the case management conference scheduled for November 14, 2007, at 1:30 p.m., before the Honorable Judge Edward M. Chen. Defendant attempted to collaborate with Plaintiff in filing a joint Case Management Statement. Defendant, however, was advised that Plaintiff's counsel would not be available until after the Case Management Statement filing deadline. As such, Defendant respectfully submits its separate Case Management Statement.

DESCRIPTION OF THE CASE

Plaintiff Bonnie Sterngold filed this action for trademark infringement and false designation of origin under the Trademark Act of 1946, trademark dilution under Section 14430

of the Business and Professions Code of the State of California, and unfair competition under the common law and Section 17200 of the Business and Professions Code of the State of California, based on Defendant Anthony Roberts' alleged adoption and use of "Stirling" as a brand name for knife sharpeners in purported violation of Plaintiff's alleged rights in "Sterling" as a registered trademark for knife sharpeners.

Defendant contends that he sold sharpeners of a different design than plaintiff's sharpener, with defendant's sharpeners bearing the name "Stirling" from approximately 1997 to 2002. Defendant sold sharpeners of a different design than plaintiff's sharpener, with defendant's sharpeners bearing the name "Tony's Sharpeners" from 2002 to present with an instruction sheet that references that the sharpeners were previously sold under the name "Stirling."

On November 1, 2007, Defendant Roberts answered the complaint.

A. Principle Factual Issues which the Parties Dispute

1. Whether Plaintiff Sterngold is the owner of United States Registered Trademark Registration No. 2311151 (the "Sterling" trademark);
2. Whether United States Registered Trademark Registration No. 2311151 is or was valid and enforceable at all relevant times;
3. The nature and extent of Defendant Roberts' use of "Stirling";
4. Plaintiff Sterngold's damages, if any; and
5. Whether Plaintiff Sterngold failed to mitigate damages.

B. Principle Legal Issues in Dispute

1. Whether Defendant Roberts acted so as to infringe upon any rights of Plaintiff Sterngold in relation to the Sterling trademark;
2. Whether Defendant Roberts use of "Stirling" as a brand name constituted a false designation of origin in relation to the Sterling trademark;
3. Whether Defendant Roberts acted so as to dilute the brand name of the Sterling trademark;
4. Whether Defendant Roberts acted so as to unfairly compete against Plaintiff

1 Sterngold;

2 5. Whether Defendant Roberts use of "Stirling" was willful;

3 6. Whether Defendant Roberts use of "Stirling" constituted fair use; and

4 7. Whether Plaintiff's claims are prohibited by the applicable statute of limitations,
5 laches, and/or waiver.

6 C. Other Issues

7 1. Whether this Court has personal jurisdiction over the defendant; and

8 2. Whether venue is proper.

9 D. Parties Which Have Not Been Served

10 None.

11 E. Potential Additional Parties

12 Defendant Roberts is aware of no other potential additional parties.

13 F. Consent to United States Magistrate Judge

14 Defendant Roberts consented to assignment of this case to a United States Magistrate
15 Judge on November 2, 2007.

16
17 **ALTERNATIVE DISPUTE RESOLUTION**

18 The parties have engaged in preliminary discussions regarding settlement. In the event
19 that these discussions do not result in an early resolution of the case, Defendant Roberts is
20 agreeable to engaging in an early court-ordered mediation to attempt to resolve all issues.

21 **DISCLOSURES**

22 Defendant Roberts is agreeable to exchanging initial disclosures per the applicable
23 discovery rules.

24 **DISCOVERY**

25 As the evidence and issues in this case are fairly discrete, defendant Roberts is agreeable
26 to proceeding with initial disclosures and commencing the discovery process per the applicable
27 discovery rules.

TRIAL SCHEDULE

Defendant Roberts requests a trial date as follows:

Defendant expects that the trial will last for the following number of days: Defendant Roberts believes trial could last up to five (5) court days.

Dated: November 7, 2007

GREENAN, PEFFER, SALLANDER & LALLY LLP

By: /S/
James S. Greenan
Attorneys for Defendant
ANTHONY ROBERTS

CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order.

Dated: _____

HON. EDWARD M. CHEN
UNITED STATES MAGISTRATE JUDGE